

abroad. While we claim him for Missouri, his pastoring and his services extend to many people beyond the borders of our State. We are extremely delighted that he has been able to bring this body together and start us, we hope, on the right track today.

Dr. McClendon was educated in Georgia, Kentucky, and Missouri, and has been pastor for lengthy periods of service in New Mexico and Texas before being elevated to the current status in Missouri.

In addition to his church responsibilities, Dr. McClendon is a widely respected civic leader. He has served as trustee for the Ozark Mental Health Center, on the board of directors for the Ronald McDonald House of the four States, and as a member of the Advisory Council for the Community Blood Center of the Ozarks.

Dr. McClendon's works can be read through his published works. He has been on numerous television broadcasts throughout the region and has developed quite a wide following.

The interesting thing about Dr. McClendon is his ability to balance his calling, his family duties, all the while contributing so much to the Greater Joplin community. It underscores his dedication and active commitment to doing God's work for the betterment of humanity and all of our spiritual lives.

Dr. McClendon and his wife Jackie have three children, Scott, Gwen, and Crystal. Today, we are very pleased to be able to welcome an enthusiastic group of friends and admirers as he opened the Senate for business. We are truly delighted to welcome him and his group.

Thanks, Dr. McClendon, to you and your family, for your service.

I appreciate the opportunity to make these remarks. I thank the Chair for giving me this opportunity.

The ACTING PRESIDENT pro tempore. The majority leader.

EARTH DAY

Mr. FRIST. Mr. President, very briefly, I wish to comment on an event we are celebrating throughout the United States today and indeed throughout the world today. That is the fact that today is the 34th anniversary of Earth Day, an event that gives people the opportunity to celebrate the environmental accomplishments that have been made over the past three decades and, yes, to look ahead to see what progress can and should be made.

What has been so apparent to me as I travel back to Tennessee and talk to people across Tennessee is the opportunity that this day and this focus gives communities to discuss, to participate, and clean up of projects—to participate in conservation projects all across Tennessee. And, thus, it is happening all across the country.

Thousands of volunteers today, right now as we speak, are participating in an event—and the next few weeks will continue that discussion and that ac-

tivity—all of which will serve to raise environmental awareness and improve the cities and towns and the environment in which we live.

This year we have much to celebrate. The quality of our environment has dramatically improved over the past 30 years. Federal, State, and local efforts have enhanced our air and enhanced our water quality by reducing pollution. Major steps have been taken to clean up contaminated sites over the last 30 years and to protect our natural resources.

Since 1970—a little over 30 years ago—aggregate emissions of harmful pollutants have decreased by 25 percent. And that has happened—this decreasing of the pollutants by 25 percent—at the same time our gross domestic product has increased 161 percent. Energy consumption has increased 42 percent.

Tennessee is home to some of our Nation's most diverse natural areas. We have the Great Smoky Mountains in east Tennessee, a wonderful environment, a wonderful region, a wonderful space that I personally enjoy. I hike through it every year with my family—my wife Karyn and my three boys.

It is our Nation's most visited National Park, the great Smoky Mountains National Park. It is home to more than 100,000 different, distinct species, hundreds of which are new to science. The park itself is one of the most biologically diverse, indeed, in the world. Tennesseans know how critically important it is to protect and to conserve our limited resource.

In recognition of Earth Day, Tennesseans are volunteering all across the State, in National Parks, community cleanup projects, in wildlife refuges. A lot of the projects I mentioned are underway as I speak. In Nashville, thousands turned out to Centennial Park to learn about the Cumberland River and the region's water resources. Tennesseans are taking part in cleanup activities in the Reelfoot National Wildlife Refuge which is in northwest Tennessee. In east Tennessee and Knoxville there is the Fifth Annual Earthfest which is themed "What's In Your Water," to highlight water resources and quality issues in east Tennessee.

Federal agencies, in cooperation with national and grassroots organizations, are working together to educate Americans about how they can participate in cleaning up their environment on a daily basis, what they can do as individuals, as communities, initiatives such as the ENERGY STAR Program, statewide recycling programs, and under the Department of Agriculture, the Natural Resources Conservation Service is teaching people how to be good stewards of our planet.

Earth Day is, indeed, an opportunity to reflect on our accomplishments today and think about how we can do more to improve the environment.

The administration has proposed several new initiatives that will reduce air

pollution, which will support conservation and environmental stewardship programs and address our Nation's limited water resources issues. We also are working with international partners to address global climate change and assist developing countries with environmental challenges such as deforestation and illegal logging.

After more than 30 years, Earth Day has become an integral part of our Nation's environmental consciousness. No matter how you choose to celebrate Earth Day, you will be taking part in an international effort to preserve our natural resources and build a healthier tomorrow.

I yield the floor.

The ACTING PRESIDENT pro tempore. The assistant Democratic leader.

ORDER OF PROCEDURE

Mr. REID. This is a unanimous consent request. I will not take time from the distinguished Senator from Colorado. Under the half hour that has been allotted to the Democrats in our morning business, we would dispense that by giving 10 minutes to Senator KOHL, 10 minutes to Senator LEAHY, and 10 minutes to Senator Lautenberg, not necessarily in that order; whoever is there, 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there is a period for the transaction of morning business for 60 minutes, with the first 30 minutes under the time of the majority leader or his designee and the final 30 minutes under the time of the Democratic leader or his designee.

The Senator from Colorado.

ASBESTOS

Mr. ALLARD. Mr. President, the Senate will decide shortly what path to take on the pending asbestos liability legislation, otherwise known as the Fairness In Asbestos Injury Resolution Act, more frequently referred to simply as the FAIR Act. This bill has inspired very strong sentiments from many Americans. Like my colleagues on both sides of the aisle, I am deeply sympathetic to those who have suffered severe medical consequences from exposure to asbestos.

I am somewhat less sympathetic to those who may seek compensation without demonstrating a medical impact on their lives. While the number of mesothelioma claims has remained relatively steady at about 2,000 claims

a year for the last 10 years, over 100,000 cases were filed in 2003.

According to the RAND Institute for Civil Justice, mesothelioma victims receive only 17 percent of compensation awards, compared to 65 percent for nonmalignant claimants.

On top of that, trial lawyers may charge fees as high as 40 percent plus litigation expenses. The result of less justifiable lawsuits is many real victims are denied compensation for actual injuries.

To date, 67 companies have been bankrupted and more than 60,000 Americans have lost their jobs as a direct result of asbestos liability. Clearly, we have a problem in this country.

I followed the numerous Senate hearings held on this issue and I have met with numerous Coloradans with a variety of perspectives. I met with those who lost loved ones to mesothelioma, those who have lost jobs due to asbestos litigation, and those who are curtailing their manufacturing operations in Colorado in anticipation of continued claims.

The complexities of this issue are tremendous. I compliment my colleagues, the chairman of the Judiciary Committee and the majority leader, for their work to date on this issue.

Beyond the FAIR Act, general litigation and litigation reform have been major topics of concern this session in the Senate. Last October, the Senate focused on the Class Action Fairness Act. When a plaintiff's injury is not worth enough to justify a legal suit to recover damages, individuals similarly affected can combine damages for one lawsuit against a common defendant. In recent years, driven largely by a few unscrupulous attorneys, there has been an explosion in class action litigation. Our economy bears an enormous burden due to this explosion of litigation. Unfortunately, much of that burden is carried by consumers. Specific to these suits, these abuses of the system, the consumer is often left out in the rain once there is a settlement. Attorneys can make millions, while the plaintiffs are often left with nothing more than a coupon for a service they were denied in the first place.

Like so many things designed to protect consumers and ensure fair and just restitution, the tool of class action has been manipulated. Far too often, that manipulation has yielded tremendous wealth for attorneys driving these actions and little or nothing for the consumers initially harmed.

The Center for Legal Policy recently reported from 1997 to 2000 United States firms saw a 300-percent increase in Federal class actions and a 1,000-percent spike in State class actions. The end result, as we will see, is an increase in litigation, thus an increase in the cost of doing business and higher costs passed along to the consumer. There are, in fact, a plethora of abuses that have contributed to the generation of this legislation in the Senate.

Nothing in the class action bill denied a consumer a right to make valid

claims. This point cannot be stressed enough. Our legal system has functioned under this guiding principle for generations. We will do nothing in this Chamber to challenge that principle.

There are those in this body who see this bill differently. There are those in this body who can look at the class action brought against Blockbuster Video where attorneys will collect a little less than \$10 million and class members will get coupons toward future video rentals and say this is justice. This case, and cases like it, are representative of the systematic denial of valid claims by class members and it is incumbent upon us to rectify this situation.

One such tool at our disposal is increased oversight of such settlements. The Founding Fathers, in their infinite wisdom, envisioned problems like this. The Constitution was drafted explicitly to provide for Federal jurisdiction over all lawsuits between the citizens of different States. These cases involving parties of diverse citizenship have evolved into what we see today as national types of litigation or big-dollar suits against large companies engaged in interstate commerce. Over time, Congress has more narrowly defined constitutional diversity and created a requirement that all plaintiffs be diverse from all defendants. The result today is venue shopping, attorneys seeking favorable State courts through which to pursue an action that is national in scope. The Founders knew such nebulous venue requirements could lead to local biases in cases of broad significance and we have, unfortunately, arrived at that point. The Constitution provides for Federal jurisdiction over citizens of different States so local bias will never become an issue. National, multimillion-dollar suits should not be barred from Federal courts. The egregious practice of venue shopping flies in the face of the Founders' intent.

Class actions are a valuable part of the legal system. Recent abuses and a shift in the benefits of an action from class members and toward attorneys should not signal the end of access to appropriate legal recourse. The system as it exists today is untenable.

Medical liability has become another increasingly important matter on a national scale. In February, the Senate debated the Patient Crisis/Access to Care Act. Skyrocketing medical liability premiums have translated directly to physicians limiting services, retiring early, or moving out of the State—one State to another—to escape escalating costs of liability insurance.

This cost is deeply felt and extends well beyond the physician-patient relationship. Emergency departments are losing staff and scaling back critical services, even trauma units. OB/GYNs and family doctors have stopped delivering babies, and all too often high-risk procedures—for example, neurosurgery—are postponed because surgeons cannot find or afford insurance.

The result is a serious threat to patient access to care. Twenty-six percent of health care institutions have cut back services or eliminated patient care units. Seventy-eight percent of Americans fear that skyrocketing medical liability costs will limit access to care even further.

If we look at the root of this problem, we see that median medical liability awards have increased 43 percent in 1 year from \$700,000 in 1999 to more than \$1 million in the year 2000. In 2001, malpractice insurers paid \$1.53 in claims and costs for every \$1 received in revenue. This system is not sustainable and will not serve those Americans in need of better health care.

We are suit happy. At some point Americans stopped bargaining and negotiating in good faith. At some point we became less concerned with justice and more focused on assigning blame. More than assigning blame, we now assign dollar amounts to virtually every major, minor, and perceived slight. We live in a country where family disputes are settled in court.

Mr. President, at the risk of sounding too folksy, people where I come from, where I was raised, simply do not see it this way. If this body does nothing else today, we should commit to an overall effort to recast our approach to the judicial system—a system that has grown obese and focused on greed rather than justice.

These are just a few examples of the cost of continued and increased litigation and the importance of reform.

The FAIR Act, which faces a cloture vote later today, marks another attempt to deal with a pressing national issue. It is clear, however, that the FAIR Act will not be permitted to come to an up-or-down vote in the Senate.

A variety of important bills have been effectively defeated before they have ever come to an up-or-down vote in this body. Parliamentary tricks and filibuster by the Democrats have jammed numerous issues.

The following examples should clearly illustrate this obstruction.

The JOBS bill would both repeal a European tariff on nearly 100 American-made products and cut taxes for manufacturers in the United States. Although the JOBS bill passed the Finance Committee 19 to 2 and enjoys broad, bipartisan support, Democrats voted to block a vote on the measure in March.

The medical liability legislation I discussed—patients across America are denied critical health care, including emergency and obstetric care, because doctors and hospitals are closing their doors from skyrocketing liability costs. Opponents blocked a comprehensive, bipartisan bill in July of 2003. In February of 2004, Senate Democrats again blocked an effort to protect women's access to obstetric and gynecological care. That was S. 2207.

The energy bill—a comprehensive energy bill would deliver nearly 1 million

American jobs, increase renewable and alternative sources of energy, and reduce America's dependence on foreign oil. This bill has been blocked in the Senate for 3 years, including a provision to open ANWR and dramatically reduce America's dependence on foreign oil and create hundreds of thousands of more American jobs.

The Workforce Investment Act is projected to help more than 940,000 dislocated workers get the training they need to get good jobs. It was passed by both the House and the Senate—I might add unanimously in the Senate. Senate Democrats now refuse to appoint conferees so that the bill can become law.

Judges—the unprecedented, unconstitutional challenge to the Senate's advise-and-consent role continues. A minority of Democrats have prevented six highly qualified Federal appeals court nominees from receiving a fair, up-or-down confirmation vote and are threatening to use partisan filibusters to prevent confirmation of additional judges. If given an up-or-down vote, all these nominees would be serving on the bench today.

The class action legislation I mentioned would create a consumer bill of rights to ensure that victims are not denied fair compensation while their trial lawyers escape with the lion's share of court awards. On October 22, 2003, Senate Republicans and nine Democrats came one vote short of overcoming the Democrat leadership's parliamentary obstruction.

Faith-based/charities legislation passed the Senate on April 9, 2003, with overwhelming bipartisan support, 95 to 5, and similar legislation resoundingly passed the House on September 17, but the Democrat leadership is blocking a conference committee to resolve House-Senate differences and even allow a final vote. The CARE Act will spur more charitable giving and assist faith-based organizations and community charities.

Welfare reform—on April 1, 2004, Senate Democrats voted to block a measure to reauthorize the landmark 1996 welfare reforms. H.R. 4 would build on the successes of the 1996 reforms to strengthen work requirements and promote healthy families, as well as provide an additional \$6 billion in childcare funding.

It is time to move forward with an agenda in the Senate. I think it is time for us to put aside the partisan politics we are experiencing in the Senate today and move forward with, I think, very important legislation. I talked about some of that: liability reform, that affects both class actions as well as medical care; trying to ensure that we have voluntarism. Welfare reform has been extremely successful. Yet we find that obstructed in the Senate.

I hope, even though this is a Presidential year, and many of us are not surprised by some of the Presidential politics, that the Democrats will seek to cooperate more with the Republican

majority so we can move forward with the agenda in the Senate.

There is a terrible cost being exacted for our delinquency on these matters. Every day the outlook for health care, the burden of an un-reformed tort system run amuck, and opportunities for America's small businesses grows increasingly difficult. I pledge to work with my colleagues on each of these issues, some of which I support and others which I may not, but I will work with colleagues to see that each bill receives a fair up and down vote. Our constituents deserve better than to watch while the legislative process is held hostage for the political or ideological desires of a few members of this body.

Mr. President, I thank the Chair and yield back my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ALLARD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OBSTRUCTION TACTICS

Mr. SANTORUM. Mr. President, I rise to express my concern about what seems to be an all-too-apparent pattern in the Senate when we earnestly try to work together to bring up issues that are important to the future of this country, such as the jobs in manufacturing bill, the FSC bill, where we have been trying to avoid more tariffs, which now have been levied against many manufacturers by the European Union, that are increasing month by month. We are trying to get a bill passed to help our manufacturers, to help our manufacturing economy, and that is being blocked on the floor of the Senate.

Medical liability: We have had three votes just to bring the bill up to discuss it, to discuss an issue that is devastating my State. I have had numerous town meetings across the Commonwealth of Pennsylvania. Doctors, nurses, health professionals, hospital administrators, patients, and patient groups are coming and saying: We have to do something to deal with the skyrocketing cost of health insurance as a result of medical liability insurance costs.

We have lost 1,100 doctors in Pennsylvania alone. We have great medical schools, but we are almost last in the country now in physicians under the age of 35. Yet we produce—next to New York and California, maybe Texas—more young physicians than any other State in the country. It is a huge problem; yet we can't even debate it in the Senate because we are being blocked.

Energy is another one. It came very close. We worked out a bipartisan bill. It had bipartisan support. We couldn't get an energy bill passed because of a filibuster in the Senate. The same is true with workforce investment. We passed it. It is being blocked from going to conference. That is a new obstruction tactic which is a sort of bait and switch. It is the idea that, yes, we will give you this, we will pass it, and then after everybody believes we passed it and we have done our job, we are not allowed to go to conference to work out the differences between the two bodies. So we can't get a bill done.

We have talked about judges over and over and spent many late nights here talking about the obstructionism. Again, it is a new tactic, a new level of obstruction heretofore never seen in the Senate—requiring judges to get 60 votes for confirmation. So we have this new threshold for judges. We have a new threshold for passing legislation which is not allowing us to go to conference and requiring a 60-vote majority to go to conference, not to pass a bill, not to bring a bill up. It is obstruction on top of obstruction.

We had a bipartisan welfare reform bill we were working on. We were working to do more for daycare—many on the other side of the aisle wanted to do that—\$7 billion more for daycare, a huge increase in daycare funding with a very small increase in work requirement and in participation standards. It was blocked on the floor of the Senate.

On class action we came close—one vote. Again, we came close; not 51, not passage, it came close to the 60 votes that are now required on every single measure that comes before the Senate. We came one vote short, and we still have no assurance of the ability to bring the bill up and to come to conclusion.

Faith-based charities is another example of a bill that passed with 90-plus votes. We can't go to conference. This was a bill that was bipartisan in nature. Senator LIEBERMAN and I were sponsors of the legislation. There was no controversy surrounding it. Anything that was controversial was excised from the bill. Still we can't get the bill to conference to be able to get something that will infuse billions of dollars into charitable organizations across the country.

Now we add to it asbestos care and jobs. We have this bill. Again, what is this about? What is this vote about? This is about discussing the bill. Is anyone in this Chamber saying there isn't a problem? There was a settlement that was just agreed to wherein the average person in Pennsylvania received \$12,000, and the average claimant in Mississippi received \$250,000 per person. Is this a fair system, where people in Mississippi, because of a ridiculous court situation that goes on and the fraudulent court system in some counties in Mississippi, where lawyers have bought off the judiciary, that that is somehow or another a fair